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TREATY COMMISSION URGES CHANGES TO SAFEGUARD TREATY PROCESS

The BC Treaty Commission says Canada, British Columbia and First Nations must work together to re-invigorate the treaty process or face the likelihood of increased economic uncertainty through litigation and renewed confrontation.

The Treaty Commission has sent a letter urging Canada, B.C. and the First Nations Summit to work together through a tripartite task force to examine and agree on ways to make the treaty process more responsive to current legal and economic realities.

The Treaty Commission believes now is the time to invest in the treaty process and for the two public governments to put additional resources into negotiations. The Supreme Court of Canada decision in *Delgamuukw* has focused attention on the importance of treaties and as a result there is now a greater public understanding of what is at issue in treaty negotiations.

"Now, more than ever, there are compelling and attractive arguments for reconciling aboriginal and non-aboriginal interests through negotiation," says the Treaty Commission's chief commissioner Alec Robertson. "What is needed is political commitment. Canada, B.C. and the First Nations Summit must take the lead in working toward that reconciliation."

"The Supreme Court decision on December 11 is already having a major impact on the BC treaty process," says Robertson. "It's not business as usual. The court's decision involving the Gitksan and Wet'suwet'en recognizes and defines aboriginal title in B.C."

At least two First Nations in the treaty process are seeking a declaration of their aboriginal title in court, and others are prepared to assert their aboriginal title by seeking to halt activity in what they see as their traditional territory. Many more are reviewing their options but remain committed to treaty negotiations.

The Treaty Commission, which currently monitors treaty negotiations involving 51 First Nations, expects the Supreme Court decision will have serious implications for the bargaining positions of each of the negotiating parties, their approach to treaty negotiations and to the treaty process itself.

"New mandates and approaches, given the complexity of the issues facing Canada, B.C. and First Nations, won't happen overnight," says Robertson. "We recognize this will require patience from the parties at the negotiation tables."

Robertson says the Supreme Court decision is seen by First Nations in British Columbia as strengthening their positions and lowering the traditional barriers to litigation as an alternative to negotiation.

"Litigation is always an option for First Nations, and may be seen by some as more viable now," says Robertson. "But we believe negotiation will remain the better option given that litigation is timely, costly and unpredictable."

Robertson says the Supreme Court sent a clear signal that the uncertainty caused by unresolved aboriginal issues can best be addressed through treaty negotiations. The Chief Justice wrote that, "Ultimately, it is through negotiated settlements, with good faith and give and take on all sides...that we will achieve...the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown."

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